

# THE CALCUTTA JOURNAL,

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### MISCELLANEOUS.

—205—

#### General Summary.

Since our last, there have been several Arrivals from Sea, among which are the English Ship MADRAS, Captain Wellden, from Falmouth the 5th of August, and from the Cape the 2d of November; and the French Ship LA DELPHINE, Captain Heraud, from Nantz the 5th of September, and Bombay the 10th of December. From the first of these, no News of a later date than we before possessed could have been obtained; and from the last no Papers have yet reached us.

The greater portion of our present Number is given to a Report of Proceedings in the Supreme Court of Calcutta on Friday last.—In preparing this for the Press, it has been our sole aim to be full, accurate, and impartial; and although there are and must be many defects in the whole, which will be perceived by those among our readers who were present at the Trial, each of whom may happen to have heard some portion that escaped another, according to his peculiar situation in the Court; yet we can safely and conscientiously say that we have scrupulously performed our duty to the best of our abilities, in adhering strictly to the matter which the Notes of our Reporter and our own memory contained.

There are already, as we learn, various opinions entertained as to the probable line of conduct we shall henceforth pursue in the management of the JOURNAL; some believing that in the enthusiasm of victory and success we shall be tempted to overstep the boundaries of discretion, and be brought up before the Court for other alleged Libels before a month is over; others supposing that the heavy expences of the late Prosecution, which we shall have to pay though acquitted, will so break our spirits as to destroy all the life and energy of the Paper, and make it scarcely worth reading; while others again imagine that we shall be so disgusted and disheartened, by the interminable prospect of legal proceedings and legal costs, as to give up our charge in despair, and abandon our post on the very first occasion of our being threatened with any new danger.

We ought perhaps to feel obliged to those who think us of sufficient importance to speculate in this or any other manner upon our probable fate; but as far as the three classes enumerated are concerned, we sincerely hope that we shall disappoint them ALL; that we shall falsify their predictions, and shew to the world that he who makes principle the basis and foundation of all his conduct, is not likely to veer about with every wind that blows, but to remain as firm and unmoved in the tempest as in the calm, and as active and vigilant amid the bland airs of popular favour, as in the whirlwind and storm of proscription and persecution. We shall enjoy our triumph, therefore, with a moderation that we hope will disappoint entirely those who count on our enthusiasm leading us into indiscretion;—while on the other hand we shall let those who calculate upon the very opposite effect, see their mistake also, by pursuing a steady course, as if nothing whatever had happened; so that we hope the only difference between the earliest and the latest moments of our public labours will be, that the last may be more useful than the first, and that our improvement may keep pace with the progressively increasing countenance and support given to our humble efforts for the public good.

To those who object to the exercise of Free Discussion in India because its English Inhabitants are chiefly Public Functionaries, we can only say, that this is the strongest reason which

could be urged in behalf of its utility. It is not the regulation of private life, or the amendment of private character, that the Press aims at effecting. It is to Public Functionaries alone, that its comments are ever intended to apply;—and while the Army, the Navy, and the Ministry of England, are all subject to its examination, without a word of objection ever being raised to the principle of applying its strictures to public men and public measures, we have also the authority of the Government under which we live, for stating, that a Paper conducted on the principles professed by us at the outset of our undertaking, is eminently calculated, by such comments, to benefit all classes of our countrymen in public employment in India.—What those principles professed by us at the outset of our labours were, our Readers are too well aware of, to require them to be repeated here. They are the same which we have always professed, and if they deserved commendation then, they are equally worthy of praise now. When we depart from them, we shall deserve the severest punishment that public disapprobation can inflict.

To those who object to the exercise of Free Discussion because our Society is too small for it to be relished, we would observe, that the English Society of India is now much larger than when the Press was allowed the fullest scope under the Government of Warren Hastings; that India contains a much greater number of Englishmen than the West India Islands, in each of which the Press is as free as it is in London; and that the Mayor and Corporation of the smallest Borough in England are as open to the animadversion of their fellow-citizens as the Members of Parliament in the Metropolis. Such an idea as this, that the Liberty of the Press is less suited to a small Society than to a large one, seems never to have been entertained in any other country than India, whether a free or an enslaved one. Who, for instance, would think of such an anomaly as a Free Press for London, a Censorship for Bristol, Restrictions for Liverpool, and no Press at all for Bath? or who would dream of a Free Press being good for the West Indies, where the enslaved negro population are more irritable and more dangerous than any where else, yet pernicious for the East Indies where the free population are more mild and submissive than in any other country on earth?—Yet to these absurdities should we be reduced if we admitted the premises on which they are grounded.

The truth is, that the more a country abounds with Public Functionaries, and the more unlimited and irresponsible the power of such Functionaries may be, the more useful and the more necessary will a Free Press be found; if the object of the Government be to ensure, by the upright conduct of their Servants, the prosperity of the country and the happiness of the people over whom they govern; and no Government deserves either respect or obedience unless these be the real as well as the professed objects of its rule. The sophism set up about the danger of the Press, in a Land, or Garrison as it has been called, of Public Functionaries is therefore wholly unsupported. So also is that which affects to dread the Press as a dangerous Engine in a small Society. In common life, it is generally held that the smaller the party, and the greater the intimacy subsisting between the members of it, the more freely may people speak to and of each other; and we see at least exactly the same freedom exercised in the smallest borough of England as in the largest city, when the conduct of public men is the topic of debate. Until a graduated scale can be formed, therefore, stating the exact quantum of Liberty suited to a certain mass of population, we may claim

the full enjoyment in Calcutta of what can be exercised without danger in Jamaica; though even if the size of a country or the extent of its population were to decide it, we should be entitled to a large share; and Russia, China, and India, would deserve to enjoy a much greater Freedom of Discussion than Holland, England, and America.

But the instable and sandy foundations of ALL the reasons that we have ever yet heard advanced against the toleration of a Free Press in India, have sunk beneath them, and the Question is now we hope set at rest for ever. The advocates of an enslaved and fettered Press have been beaten in fair and open argument, have been condemned by the most marked expression of the public voice, and have been defeated even in their appeals to the regular channels of legal decision. Let them, therefore, be satisfied that against three such powerful testimonies it is in vain to contend. Let them at least learn not to bear themselves with the arrogance of infallibility towards those who think differently from themselves; but allow to all the free exercise and the free expression of their opinions; and, as erring beings, not decry and condemn those whose errors may not be more glaring than their own. In this spirit of liberal feeling and complete toleration it is at least our determination to act: it is thus that we shall enjoy our triumph, and pursue unmoved the steady path of impartial justice, sincerity, and truth, which we trust will afford to ourselves the means of an honorable existence, to our readers a constant fund of agreeable information, and above all to our country and to mankind such benefits as the honest discharge of every individual's duty must more or less confer.

The following articles from the French Papers of August, last received, have not yet been published.

*Journal du Commerce, August 1, 1821.*

*Alexandria, June 1.*—Many bodies of troops have collected between Alexandria and Cairo, that they may act more readily in those places where the life and property of the Franks may be threatened, in order to restrain the Turkish population and to preserve the Europeans from every insult.

Mohammed Ali has sent to Constantinople the presents which he makes every year to the Sultan, and which are usually carried to the seraglio on the evening before the feast of Bairam, to be offered there in the name of the Pasha to his Highness, at the time of this solemnity at once civil and religious.

These presents consisted in 100 eunuchs from Darfour, many *fardels* of coffee of Yemen; 50 quintals of tobacco brought from the neighbourhood of ancient Tyre, which yields the perfume of cloves, and is always gathered or bought by Mohammed Ali for the Sultan's seraglio.

Cashmere shawls, arms brought from the first manufactories of France and England; and a service, besides many magnificent vases of China porcelain make also part of this present.

There come here daily from Candia and other Greek islands of the Archipelago, Greek, Coptic, and Armenian families, escaped from the massacre in these places where they dwelt, and come to seek safety in Egypt, where they know, by report, that the lives and properties of the Franks have always been respected. The Pashalic of Aleppo, St. Jean d'Acre, and Damascus have also had their emigrations toward Egypt, so that the Franc population as well of Alexandria as Cairo has been quadrupled in the month which has just passed. That alone is a sufficient eulogium of Mohammed Ali, and has completed his right to the title of Protector of the Franks, which Europeans residing in Egypt have for a long time awarded to him.

We are assured that the Divan of Constantinople sent to ask him if he had not disposable troops which might be sent against the Greeks. Mohammed Ali showed in his reply to the Ottoman Minister the employ of all the armed forces that are at his disposal, and all so occupied that it was not possible to detach even a single cohort. It was necessary to restrain the Mamelooks of Dongola on one side, on the other

to repress continually the Wehabites who are rather tired than vanquished; the pacification of Yemen requires besides the presence of numerous troops, in order to receive regularly the taxes which have been imposed upon them; lastly the ever-agitated population of Cairo, and many other cities of Egypt imperiously demand that he be especially at this moment surrounded with soldiers who may restrain them and repress excesses.

By this picture, which has all the appearance of truth, the Pasha of Egypt has avoided compromising himself with the Greeks without disobeying the Porte, the orders of which he causes to be punctually executed, and its authority to be respected.

*Frontiers of Moldavia, July 9.*—The Turks entered Jassy from the 28th to the 29th of June, and hold the place with five *limbashes* of 500 men each; even then the city is occupied by only 200 men who are lodged in the palace. The rest of the Mussulman forces are intrenched without the city in the convent of Galata. The Turks fought before Jassy near Dukotein a bloody engagement with Hoeteristes, in which, from the commencement, all the Arnauts, Moldavians, and Wallachians took to flight. Three hundred Hoeteristes only supported the fight and faced the enemy till the last extremity. Overpowered by numbers they perished under the swords of the Turks, who also left 500 men dead upon the field of battle. A second engagement took place near Stinka, before Skuleni, upon the Pruth, where nine hundred Hoeteristes were entrenched in a position affording them a retreat on the frontiers of Russia. They were there attacked and destroyed by the Turks; Prince Cantacuzene and Colonel Pentacosti escaped with difficulty. The entrance on the Russian territory would not have been refused to the Hoeteristes, who presented themselves at Skuleni for the purpose of entering it, if they had consented to lay down their arms; but they refused to submit to this measure and threw themselves among the mountains. Two straggling Hoeteristes presented themselves on the 7th of July at Hertzeg, a somewhat populous village. They were seized and bound by the Jews who inhabit that place, in order to be delivered to the Turks; but the Hoeteristes having every where numerous partizans, these two wretches were very soon delivered by a detachment of 80 or 90 of their brethren in arms, who had notice of their detention. Before they retired, they massacred 22 Jews or Jewesses, wounded 13 others, and committed all kinds of excesses.

After the battle of Stinka, the Turks brought to Jassy 40 prisoners, of which 38, who were Greeks, were mercilessly slaughtered; the remaining two, Natives of Moldavia, received each 500 blows on the soles of the feet.

*Vienna, July 20.*—His Highness the Duke of Riechstadt appeared this morning, for the first time, in deep mourning, at the imperial chapel at Schoenbrunn.

Extraordinary movements have suddenly taken place among the Russian troops assembled on the banks of the Pruth. Nothing transpires as yet, as to the object of these movements; but it is believed that the Russian Government, justly indignant at the insults which have been given to Baron Strogonoff, the Minister at Constantinople, has dispatched a courier extraordinary to that capital, with the *ultimatum*, in which signal satisfaction is required of the Ottoman Porte; and as it is more than probable that the Divan will not listen to the demand of the cabinet of St. Petersburg, war between the two empires is regarded as quite inevitable. Moreover, Baron Strogonoff has received orders to quit the territories of the Grand Seigneur immediately, in case they do not grant the satisfaction demanded.

A courier, despatched from St. Petersburg to the head quarters of the Russian army assembled on the banks of the Pruth, has brought accounts that the Emperor Alexander will immediately quit his capital to go and review his armies.

The AUSTRIAN OBSERVER has at last broken the silence which it kept regarding the affairs Turkey: we extract from its correspondence the following facts which have not yet obtained publicity.

"The environs of Constantinople swarm with Asiatic troops; newly armed corps are expected from these provinces."



"M. le Chevalier Zea de Bermudas, the Spanish Minister, arrived on the 18th in the capital of the Ottoman Empire, his Excellency has received the customary compliments of the Porte.

"There does not exist either at Constantinople or Smyrna any germ of the plague; we are assured that it reigns in Egypt, and that it has got on board some European vessels.

"According to letters from Constantinople of the 2nd instant, the head of the last Grand Vizier, Benderly Ali Pasha, was brought and exhibited on the interior gates of the Seraglio; a writing announced that he had been executed as a traitor to his country and religion.

Galib Effendi, formerly Reis-Effendi and Plenipotentiary at the Congress of Bucharest, has been deposed, and he is accused of being an accomplice of Benderly Ali Pasha.

"On the 30th of June two ships of the line and a frigate sailed to reinforce the fleet of the Dardanelles. Cura Ali has received the command of these naval forces.

"It is now pretended that Mahummud Ali, Pasha of Egypt, has raised a body of 10,000 soldiers equipped, to be sent to the Grand Seignor, and that he has likewise put to sea many armed vessels which have already gained some advantage over the insurgents. This news wants confirmation.

"In the Morea, the Turks have thrown themselves into their strong holds; the insurgents occupy the open country. The situation of things continue the same between Chorschild Ismail Pasha and Ali Pasha of Janina.

"Ibrahim, Pasha of Brussa, has formed a camp near Buyukdere, it is thought to be a secret mission to occupy the castles of the Bosphorus, and to remove the Imam's troops upon which they cannot repose with confidence.

*Assurance on the Lives of Horses.*—A very fine Portico has been constructed, No. 17, Boulevard de la Madeleine, Paris, in front of the house occupied by the Society of Assurances on the Lives of Horses; ornaments and pictures announce to the public this new company.

*Paris, July 31.*—The English Ambassador at Constantinople has enjoined all the British Consuls in the seaports of the Levant not to permit subjects of the Porte to embark on board English vessels without a formal permission from the Ottoman authorities.

Different communications worthy of credit give the following intelligence, which may relieve the families of those whom commerce had fixed in some of the ports of the Levant.

On the 16th of last June, all the French in Smyrna, without any exception, embarked under the protection of the King's Ships, the *ECHO* and the *LIONNESS*, to escape the general conflagration, which was every moment dreaded from the excessive fury of the Turks. These two ships of war were joined shortly after by the *GOLO* and the *BONITE*, store-ships, the *ESTAFETTE*, schooner, and the barge *CHEURETTE*. Our commercial interests were protected at the same period in the other latitude of the Egean Sea and upon the coast of the Morea, by a naval division composed of the *ROMULUS*, ship of the line, the frigates *JEANNE D'ARC* and *FLEUR DE LIS*, the corvette *L'ESPERANCE*, the brigs *L'OLIVIER*, *LE LOINET* and *LE RUSE*, and of the store ship *L'ARRIEGE* and of the barges *LA FRUITE*, *L'ACTURE*, and *LA LAMPROIE*.

A letter written from Tangier the 20th of June last, contains an anecdote which does honor to the French agent at that residence:—"A vessel hoisting the Austrian flag entered our roads lately. This flag having no consul at Morocco, runs the greatest risk, especially in a time of dissension. It had on board 20 Moors and a cargo worth 22,000 piasters. These Mussulmans had formed the project of making themselves be conducted, if they were not received at Tangier (because of the nature of the cargo, which was cotton taken at Alexandria) to another port of Morocco, where they would have been at liberty to commit every

kind of outrage upon the crew, against which, according to the declaration of the Captain, they had announced that they had the most sinister intentions. The very moment the arrival of this vessel was known, the Consul-General charged with the affairs of the King of France, M. Sourdeau, repaired to the port, and did not hesitate to take this vessel under the protection of his flag; he obliged the Moors to respect the ship, and asked them to cause the passengers to make quarantine, and to send it to ride quarantine at Mahon.

The Consul asked in the name of the King of France, the friend of the Emperor of Austria, this permission, which proved a matter of much difficulty. "A friend of the King, my master, cried the Consul in the midst of the Moors spread over the beach, is my master himself; I will be answerable for every thing." Immediately every thing was granted by means of an engagement entered into between the Consul and the Moorish Governor; an engagement signed upon the sea shore before the *Adouls* or Notaries of the country, by which the Captain, under the security of the French flag, gave his word of honor to return to Tangier when his quarantine was completed at Mahon, to restore to the Moors their cargo. The Captain made sail two hours after from Mahon, testifying to the Consul, with that effusion of heart know only to seafaring men, his gratitude for having afforded such ready and efficacious protection.

*Le Memorial Bordelais, August 2, 1821.*

*Paris, July 28.*—They write from Aix, on the 23d. of this month: An attempt at suicide took place yesterday at 7 o'clock in the morning in this city, and had been preceded by an attempt to assassinate a young person. Love and Jealousy were the cause of this double crime; the circumstances of which are as follows:—

A young man aged 21, farmer of a considerable domain, situated in the arondissement of Aix, was desperately smitten with a lady of that city, sister of a proctor; he had asked her in marriage; but his proposals had been rejected,

Having gone to Aix for the purpose of seeing her, he met her walking accompanied by a more favoured rival. The fury of the rejected lover was then wound up to the highest pitch, and next morning he placed himself in the street where the house inhabited by this lady was situated. The night which had passed between the time when he had met his mistress, and that when he took up his station near her abode, had been employed probably in meditating the crime and procuring the means of committing it.

About 7 o'clock in the morning he succeeded in getting into the house. He ascended to the second story, where he found the young lady's grandmother, who advised him to retire. He replied that he knew her granddaughter was going to be married; but that she should first perish by his hand, as well as her brother and relations. He then violently pushed back the grandmother, and her eye was struck with the knob of the pistol which he had in his hand; and having observed his mistress in her chamber, he fired off the pistol, quite close to her, loaded with small shot, of which fortunately none struck her, except very slightly in the right arm and shoulder. At the same moment he let off under his own jaw, a second pistol, also loaded with small shot. It is not yet known if his wound is mortal. He cannot speak, but he traces with difficulty some misshapen characters which are however legible. He pretends it was at himself he wished to fire the two pistols. He wishes to make his will, and has called for the succours of religion.

*Journal du Commerce, August 3, 1821.*

*London, July 30.*—The fall which the Funds have again experienced, joined to that which had already taken place in the course of the last week, must be considered as a strong proof of the generally received opinion of an approaching war between Russia and Turkey. The *ENGLISHMAN* observes on this subject that the capitalists who, from their connection with the Government, have the best means of being correctly informed, have made

sales to a very great extent, and as it is thought they must act according to certain data, although it is not known exactly what these data are, their example is followed by an immense number of other persons.—*Morning Chronicle*.

One of the rumors which circulated this morning upon 'Change was that Government sends a fleet into the Mediterranean, and that all the vessels which guarded the henceforward useless station of St. Helena, are ordered to sail for that sea.—*Statesman*.

The *Courier* has, under the head of "Paris," a long letter, the object of which is to prove that it is the policy of England and France to prevent the destruction of the Ottoman Empire, and for the interest of these two powers, to see the crescent waving on the gates of Constantinople; and that for this purpose they ought in the present circumstance to interpose their mediation.

*Prussia.*—*Berlin*, July 24.—It seems certain that his Majesty the King of England will come to Berlin towards the middle of September, when on his journey upon the continent. Preparations are already making at the Castle for the reception of this Monarch. On this occasion there will be a grand review of Troops, which will be concentrated on the 22d of September, in a wide field near the capital.

*Hanover*, July 19.—Intelligence has been received here that his Majesty the King will arrive at his royal residence towards the end of the month of September next. The improvements continue in all parts of the city. A pleasure ground will be appointed in the neighbourhood.

The Session of the two Chambers of State is prorogued for next winter, after having terminated the important business of the finances with which they were charged. The deficit on the receipts has greatly occupied that assembly. It is absolutely necessary that they be covered; and in order to effect this, they have decreed, it is said, a personal contribution, and a tax on industry. We shall shortly receive a circumstantial account of this matter.

*Vienne*, July 23.—We are assured that since yesterday our cabinet has received an official notification of the Russian declaration of war against the Ottoman Porte. Some pretend that the part which Austria will take in this affair will be confined to concentrating a body of Troops upon our frontiers and putting 30,000 men at the disposal of the Emperor Alexander. However this may be, the greatest activity has existed for some days in the Office of the Aulic Council of War. Expresses are frequently sent off to the Generals who command the Troops which form the Cordon, as well on the frontier of Turkey as in the Bannat of Tomeswaer. This Cordon will be considerably reinforced; already the Regiments stationed in Bohemia are upon the march for this destination.

We expect every moment to receive important news from Moldavia. It is thought that this province will be immediately occupied by a body of the Russian Army.

Letters from Petersburg announce that considerable reinforcements have been sent to the Russian Army, which is upon the banks of the Pruth. Extraordinary preparations for war have taken place in Poland and in the Government of Southern Russia. It is even pretended that an order of the day published at the Head Quarters of Tulezyh has announced to the Army of the South that it must hold itself ready to march on the first signal.

A *Courier Extraordinary* has been dispatched to-day for Petersburg, at the close of a Council of the Ministers, at which the Emperor presided. He brought dispatches of the highest importance to our Minister, Baron Lebzelter. It is not doubted that they relate to the affairs of Turkey, and to the march of the Russian Troops towards the Ottoman Territory.

We are assured that our Court has made a new attempt to smooth the differences that have arisen between the Ottoman Porte and Russia. It is added that this step is taken in consent with England,

Among the papers brought to England after the decease of Bonaparte, there was a large packet destined, according to an address written by Bonaparte himself, to his Majesty the Emperor of Austria. It is asserted that General Bertrand confided this packet to an English Officer after having demanded his word of honor to give it to none but the Austrian Ambassador or to a person delegated by him for this purpose. Immediately after the arrival of the vessel, the Marquess of Londonderry invited the Ambassador, Prince Esterhazy, to receive the dispatches from on board the ship, or to send thither a person endowed with powers; but the Prince declared that he judged it useless to employ so many formalities, adding that, according to the intimate relations of amity, which subsisted between the two cabinets, he would with pleasure receive these papers from the hand of the Marquis of Londonderry, and that he therefore requested him to transmit them to the British Minister. They have been since sent here. It is generally thought that they relate to the last wishes of the deceased.

*Paris*, August 2.—The brilliant carriages, the six footman in yellow livery with silver lace, the two rows of couriers of the Duc de Gramont continues to have so much success in London that at the last Court Circle, persons placed in the first rank of the crowd of curious spectators, made traffick of their places, and sold them at from one shilling to three, to persons eager to contemplate the equipages of his Excellency.

Many of the most distinguished families of Turin who were implicated in the late troubles of Piedmont have quitted this kingdom. A considerable number of arrests have taken place in Lombardy: among others that of Charlotte Marchetti, one of the best actresses of Italy, is mentioned. She was violently suspected of having intimate relations with some persons suspected of being themselves Carbonari.

Intelligence has been received at Malta from Alexandria, that the Holy Sepulchre has been profaned by the Mussulmans. The patriarch of Jerusalem, his clergy, and a considerable number of Christians of both sexes have been slaughtered or sold for slaves. The Holy city swims in blood. Apprehensions are entertained for the monasteries established in the Holy Land. Every thing proclaims that the Church is about to experience a terrible persecution in the East. They write from Venice that the Editors of the Journals of that city are forbidden to publish any thing on the affairs of Turkey, but what appears in the *Austrian Observer*; for as much as this is the only source worthy of credit: it is the same at Milan. It is evident that the Italian Public are thus spared the trouble of comparing contradictory reports with those of the *Observer*; but will the readers be thereby better informed?

M. Ruthiger having learned, by means of our paper, that a joiner of Berlin announced that he had resolved the problem of the quadrature of the circle, requests us to challenge in his favor the priority of this discovery. He published in 1817 a report, addressed to the French Institute, in which he established a system of which the result is according to him, the demonstration of the problem hitherto regarded as almost insoluble. We reserve declaring our opinion on this discovery, the honor of which we beg leave to dispute for a stranger.

Two Englishmen arrived from Egypt have sent to the Royal Academy of Inscriptions and Belles Lettres, a letter from M. Caillaud, traveller. It is dated from Dongolah, and is the first which has ever arrived from that city. No European since Poncet has visited that part of Nubia, and even the latter to gain Dongolah had struck across the desert. M. Caillaud followed the banks of the Nile with the Egyptian Army. He announces that all the maps hitherto published are erroneous. The Nile on its arrival in Nubia makes turns so considerable that it takes one month to gain, following the course of the river, the same place which may be reached in 8 days by the desert. M. Caillaud, accompanied by M. Letorger, proposes to quit the army which was to go to Darfour. He will reach the Red Sea and follow its margin, advancing towards the North.



# ASIATIC DEPARTMENT.

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## Supreme Court.

CALCUTTA, FRIDAY, JANUARY 18, 1822.

THE UNITED SECRETARIES *versus* BUCKINGHAM.

BEFORE THE HON. SIR FRANCIS MACNAGHTEN, KNT.  
AND A COMMON JURY.

*Counsel for the Prosecution.*

ROBERT SPANKIE, Esq. ADVOCATE GENERAL.  
GEORGE MONEY, Esq. COMPANY'S STANDING COUNSEL.

*Counsel for the Defendant.*

ROBERT CUTLAR FERGUSSON Esq.  
JAMES WEIR HOGG, Esq.

WILLIAM HUNTER SMOULT, Esq. *Attorney for the Prosecution.*  
BENJAMIN COMBERBACH, Esq. *Attorney for the Defendant.*

It being generally known that this Case was to come on for Trial to-day, the Court was crowded at an early hour, by persons of all descriptions, including many Gentlemen filling the highest offices in the Civil and Military Service of the Government, with Merchants and Natives of respectability, whose interest in the issue seemed only inferior to that of the European Community. The best means within our power were employed to obtain a full and accurate Report of what occurred; but those who were present will necessarily observe many defects; though to those who were not among the auditors, we shall endeavour to convey as faithful an account of what passed in Court, as the Notes of our Reporter and the assistance of memory will admit.

About ten o'Clock the Honorable Sir FRANCIS MACNAGHTEN took his seat on the Bench, and the form of opening the Court being gone through, the following Gentlemen were impanelled on the Jury:—

WILLIAM HENRY PAYNE, FOREMAN.

GEORGE POOLE,	JAMES HUNTER,
JOHN BUCKLAND,	SAMUEL GEORGE HUTTEMAN,
WILLIAM BROWN,	SAMUEL WOOD,
JAMES DRAPER,	WILLIAM GODFREY SMITH,
BENJAMIN LAMB JENKINS,	RICHARD JOHN EDWARDS,

WILLIAM SANDELL.

Mr. MONEY opened the proceedings, by stating the contents of the Indictment to the Jury, accompanying it with a few explanatory observations; he said he would state the Libel without the innuendos, as it appeared in the Papers, which would occupy less time.

On Sir FRANCIS MACNAGHTEN asking what the Libel was, it was stated by the Advocate General to be comprehended (in the JOURNAL of the 25th of October) between the words "Most certainly I do not mean the slightest attack on the Governor General", &c. and the end of the Letter signed "SAM SOBERSIDES."

Mr. MONEY read the passage in question as follows:—

"Most certainly I do not mean the slightest attack (as it has been kindly insinuated I do) upon the Government, or its much respected Chief. There is not a man in India more deeply penetrated than I am with a sense of his many great and good qualities, not one who will be more ready to stand forward and join in praise of them under any political changes which can be contemplated; and this not out of a feeling of gratitude, for he never did any thing for me; nor of expectation, for I have nothing to expect of him; nor of fear, as I have written nothing I am ashamed of, nor that I would scruple to avow to him, if he only was to judge me for it. I also declare with the utmost sincerity that to attack, injure, or underrate the Government, is and has been foreign to my thoughts; that I am known personally to all its members; and that I have a very great respect for them individually. But I think it no ways inconsistent with my respect for them, one and all, to call, as far as an humble individual can hope to do, the public attention to any matter of abuse, inconvenience,

or subject of complaint, which it is always in the power of the Public to redress or get redressed; and if I saw things going on wrong in the family of my own father, I would cry out and expose them to him. But if no wrongs are to be redressed, or suggested improvements listened to, except those which go through Secretaries and Public Officers to the Government, none will be redressed or listened to but those whom they favour; and the influence of their favour (as that of their displeasure) extends further than the Government can be aware of; some striking examples of which will soon be brought to their notice, by your fearless Correspondent—

SAM SOBERSIDES."

This (said he) Gentlemen of the Jury, is the Libel.

Mr. MONEY concluded by stating that the Indictment also contained counts charging the Defendant with maliciously libelling the prosecutors as individuals and Secretaries to Government.

On a question from Sir FRANCIS MACNAGHTEN,

The ADVOCATE GENERAL stated that the Indictment consisted of 10 counts, charging other degrees of the same offence against the several persons implicated, and then proceeded to argue the Case in support of the indictment.

The attendance which this Cause had attracted, showed the interest with which it was viewed, and he had no doubt that all who were then present would be amply satisfied with the Verdict that should that day be given. He was not one of those who objected to all discussion on the conduct of public men, because he knew that persons whose actions are open to the inspection of the Public have an additional motive to conduct themselves well, knowing that the public eye is upon them. This he admitted as a general principle; but before entering into a particular examination of the case before them, he would state that he thought it was not the duty of a public Prosecutor to come before a Jury as it were to extort a Verdict from them, or to strive by every possible means to procure a decision favourable to his case, although it might be contrary to the duties of Jurors. He did not do so, and he was sure that the Government of this Country was only anxious that all parties should have a fair Trial. He also required nothing from them which they ever after would be ashamed of having done, or that would cause in them the least feeling of remorse at any future period; he only asked such a Verdict of the Jury as they could reflect on with satisfaction to themselves at their dying hour. What they had to judge of was whether the individual put on his trial was or was not guilty of the offence charged against him; whether or not he had been guilty of an unwarrantable attack on the character of the Gentlemen in question; Gentlemen, whose characters they were equally bound in duty to themselves and to the Public to protect, as they were to protect the rights of the Defendant or the Liberty of the Press. Mr. Buckingham was charged with being, as they knew, the writer, printer, and publisher, of a malicious Libel on these Secretaries to Government, and as Servants of Government, on the Government itself; for to say that Government allowed such things in their Servants was a Libel on Government. It would no doubt be said that Mr. Buckingham was not the author of this Libel; but that was a matter with which the Jury had nothing to do. It might form a ground for asking afterwards a mitigation of punishment. But even allowing he was not the author; and although he who writes, furnishes that which is the subject of prosecution, and is equally culpable with the publisher, yet that would be of comparatively no detriment to either individuals, or society at large, without the assistance of the latter. It was perfectly indifferent to the Jury and to the world whether he is both writer and publisher, or simply the publisher. The person who publishes an attack on the character of an individual is equally guilty of committing an injury against him, whether he be the author of the composition or not. There may be several degrees of guilt in the different individuals engaged about a publication, but all the persons who are the cause of sending it forth to the world are jointly guilty. Some of them may be comparatively innocent, as for instance, the publisher may not have been aware of the tendency of the composition, but notwithstanding this, the person aggrieved has only to look to him for redress.

There would be no difficulty in proving that the Defendant either printed or published, or caused the letter in question to be printed and published; for it was well enough understood that the act of the agent attaches to the principal; and that if Mr. Buckingham had this letter printed by his order, he was equally guilty, as if he had done it all with his own hand. As a proof of this, he mentioned the case of Johnson, where a Bookseller was convicted for a Libel, written by Gilbert Wakefield, although he had ordered it not to be sold in his shop. It appeared to be a hard case, but such was the Law.

Gentlemen of the Jury (said the Advocate General), as to your rights as Jurymen, you are judges of the law as well as of the fact: of this there is no doubt. It is for you to decide not only whether or not the Defendant is the publisher of the Paper in question, but also whether or not the matter so published is a Libel; you are to find generally a verdict of guilty or not guilty.

I will now address a few words to you regarding the Liberty of the Press, about which you will no doubt hear a great deal on this occasion. But, Gentlemen, remember that this Liberty amounts not to writing whatever you please with impunity, which would be an abuse of the very name of Liberty; it would be licentiousness. The Liberty of the Press consists in being allowed to publish whatever you will, under the heavy responsibility of being amenable for it to the laws of your country; you are not tied down by any preliminary restraint. The Liberty of the Press is like the liberty of walking about; you have this liberty as Voltaire has described it in "Candide." A person may walk east as well as west; but the recruit abused this liberty of walking when he walked away from his Regiment, which he then found was desertion. A man has a right to walk as much as he pleases; but in doing so he must not commit trespasses; he may take a staff in his hand, but must not enrage those he meets. So it is with the Liberty of the Press. A person must take care in using it not to hurt any man's character; for that the law is equally bound to protect, as his life or property. A man must exercise that liberty like any other, subject to the limitations that it has been found necessary to impose upon it. This, Gentlemen, is the plain, rational, common-sense-view of the Liberty of the Press. When the manner in which such a Liberty has been exercised comes to be a question in a Court of Law, it is to be considered whether it has been contrary to the rights of any other persons, or injurious to them. The Liberty of the Press could not mean that men were to have a right to assail their neighbour's character, to irritate the public mind, or to disturb the Government.

It is for the Jury to judge when a question concerning the Liberty of the Press is brought before them, whether or not the matter in question is injurious, not only to any individuals, but also to the public peace. A publisher must take care, when he points out supposed abuses, not to do it in such a manner as to irritate men's minds. When he comments on public affairs he must take care not to Libel the character of the Public Officers as connected with them. For the situation of public men is sufficiently arduous in itself; they have a heavy responsibility resting upon them; all official persons are responsible to the Government which employs them, for every thing that is committed to them; and on their conduct in a great measure depends that of the Government itself. If you do accuse them, do it warily; but why address yourself on such a subject to the Public? Why not represent any misconduct of its Officers to the Government itself? And I here say with confidence, that to no Government on earth may you make any representation whatever with greater assurance of your being attended to. If guilty of any abuse they are amenable to this Court for their conduct; and the Liberty of the Press therefore could never be intended to enable men to attack their personal characters. Discuss any thing you will; discuss public affairs, but do so with discretion. Public Officers enjoy no privilege which prevents their conduct from being discussed as well as that of any other man or body of men, but do so in discretion and moderation.

In deciding on the present publication, then, it was for the Jury to consider if what the Defendant had now done was injurious to any one. He would give them his views on the subject; which

were deduced more from what had been said and written by others than from any thing of his own. Mr. Justice Holt, who was not only a great Lawyer, but was known to be peculiarly favorable to the liberty of the subject, had given his opinion on a question of this nature which was applicable to the present case. The case was one of the first that occurred after the Revolution. (that of Touching we believe). It had been argued that the matter in the Indictment was not a Libel, because it was general; as nothing could be a Libel, except what reflected on the character of some particular person. This, he observed, was a very strange doctrine; and it could not be maintained, that charges generally made against all its Officers was not a Libel on Government itself; for to say that Government employed corrupt Officers was undoubtedly a reflection on the Government; and unless there were some means of checking such reflections when carried beyond proper bounds, no Government was safe. The next was the case of Frankland, which had drawn considerable attention, on account of the letter having been written by the famous Lord Bolingbroke, who was an adherent of the Pretender. It was in that case decided that it was not necessary that the persons should be particularly designated, it was enough if they were characterised in such a manner that it could be generally understood. The Printer of the letter was prosecuted, and the Justice told the Jury that it was not material how the persons were described, if it was merely the initials of their names or any other marks by which the Jury could see that the publication clearly referred to them.

He referred to another case, which occurred in Lord Ellenborough's time, the subject of which was in the Letters of JUVENAL, published in COBBETT'S REGISTER, and written by an Irish Judge (Johnson we believe) which attracted a good deal of attention at the time. He had no doubt his learned friend remembered it; Lord Erskine was Counsel for the prosecution. These letters ridiculed Lord Hardwicke, the then Lord Lieutenant of Ireland. It was then contended for the Defence that parties had a right to expose the folly and imbecility of persons holding public situations. The Judge said that it was lawful only when the strictures made were confined within the bounds of lawful discussion, beyond which Penal Libel begins. The learned Gentleman contended that it would make no difference if there was an inference of improper conduct, although it was stated indirectly, and as it were by the bye. He made this observation to them, and quoted these cases, because probably he would not have an opportunity of addressing them again in reply. They would hear it argued with great eloquence and ingenuity that the Liberty of the Press extended to every thing; and that general expressions which do not apply to any individual are no Libel; but there are cases which prove that general expressions under peculiar circumstances do amount to Libel. Reflections on Societies and Corporations, and other bodies of men, although directed generally against all, may be Libel on the individuals. He quoted the case of King versus Jenool (7th Modern Reports p. 400.) He did not know that there had been any case bearing upon this point till lately, when he was hunting for cases. The Court considered a Libel which did not apply to any individual, as so much the worse, because every one might view it as an attack on himself according to his own particular feelings. Would it not be a Libel to say the River Pilots are all a set of low and illiterate rascals? or that the Barristers of the Supreme Court or the Attornies are a pack of rogues? Would not that signify that every one of the Pilots was a rascal, and that every Attorney was a rogue? and has not each of them a right to obtain redress for the slander, as if directed individually against him? You would in such a case be bound to say "Here is a charge directed against each of those persons, which each may apply to himself in his own way. It is a Libel on every individual of these bodies as well as on the whole."

He now came to the present prosecution. It seems to have been expected that the Letters of SAM SOBERNIDES would attract much attention, from the Editorial remarks which preface the second letter of this writer, and which the Defendant himself professedly wrote:—This he would read,



"The second Letter of SAM SOBERSIDES, which will be found also in the ASIATIC DEPARTMENT, deserves equal attention with the first: tho' perhaps it may raise a still greater outcry;—but if such a man as Sir William Jones was compelled to say, from the result of his experience, that no person who attempted a Reform in whatever department of life, or however much needed, could escape being misrepresented and calumniated, surely men of less brilliant talents and less eminence in life ought not to wonder at sharing the common fate of all who attempt to improve the condition of their fellow-creatures."

What, he would ask, was this, but hoisting the flag, showing the Bear. This is calling out "Walk in and see the Lions dance" with a vengeance. His Letters are ushered in with the solemnity of a Prospectus. He begins to announce before-hand what is to follow. This comes like the Dwarf before the Giant to tell how high he is that comes behind. But let us come to the Libel. Having expressed his respect for the Head, he seems to think himself at liberty to let fly at all the inferior Members. "Most certainly, (says he), I do not mean the slightest attack, (as it has been kindly insinuated I do) upon the Government or its much respected Chief." It is plain he is here speaking of the Government of India, and that truly respectable character the Marquis of Hastings, who some how or other in all their squabbles, I know not why, always escapes scot-free. But SAM, although he respects him, thinks himself fully at liberty to let fly at all the subordinate characters. "I also declare, says he, with the utmost sincerity, that to underrate the Government is and has been foreign to my thoughts; that I am known personally to all its members, and that I have a great respect for them individually. But"—Now there is always something to come when there is a *but*. He goes on, professing great respect, to say that he thinks it no ways inconsistent with his respect for them individually "to call, as far as a humble individual can hope to do, the public attention to any matter of abuse, inconvenience, or subject of complaint, which it is always in the power of the public to redress or get redressed." "And if I saw things (says he) going wrong in the house of my own father, I would cry out and expose them to him."

Now I wish to say a few words as to his duty to his father. If he saw any thing going wrong in his household, if he saw his steward cheating him of his money, his butler drinking his wine, his servants robbing him, or not carrying his letters to the Post Office, &c. instead of telling the old gentleman of it, he would go and publish a letter in the News Papers! This is a way indeed of telling his father the abuses of his family! No, no, SAM; there is nothing wrong in pointing out abuses if you do it properly; but even against servants, this method must not be followed; you would find that it would be Libel. So also as to Government: every man has a right to tell them his grievances, and by following the proper method will obtain redress; but go to the public papers and tell it to all the world, who will say that redress is this man's object?

The very first case in which I was engaged in this Court was that of a Captain of an Indiaman, who had complained to Government, through the proper channel, of some treatment he had experienced; and though he thus published his complaint, it was in this way found to be no Libel. But until you have made application to the proper authorities for redress and been refused, you have no right to complain publicly against them. I say persons have no right to call public attention to grievances until all the regular means of obtaining redress have been exhausted. It is calling the public attention to that over which they have no controul.

I now come to the last sentence, which is, "But if no wrongs are to be redressed, or suggested improvements listened to except those which go through Secretaries and Public Officers to the Government; none will be redressed, or listened to, but those whom they favor." What is the meaning of this sentence, according to the plain and natural construction of the English language? Is it not that it is vain to make any application to the Government unless you have the favour of the Secretaries? And is not this an injurious imputation on the character of these Officers? In order to de-

termine this point, you have only to ascertain whether or not it is their duty to lay before Government all applications submitted to them. If this be the case, and any one make a complaint to Government which is intercepted by the Secretaries—is not this a gross breach of duty? There must be regular channels of communication to all Governments; and if these regular channels are obstructed by the persons appointed to guard them, the persons doing so are then guilty of a gross breach of duty; they are betraying the Government whose servants they are. To accuse any person of such conduct then is to accuse them of something more than indolence: of acting from bad motives, and being guilty of a wilful breach of duty. SAM SOBERSIDES says, the Secretaries confer favors and refuse redress as pleases themselves. It is impossible to read this passage without seeing that it is a slanderous attack on the character of the Secretaries and on the Government itself.

Sir F. MACNAGHTEN observed that the sentence related also to suggested improvements; and a person could not be expected to forward improvements which he himself did not approve of.

Mr. FERGUSSON assented to this observation; noticing that this was what is meant by the words "none will be listened to but those whom they favor."

The ADVOCATE GENERAL observed, that it would form no excuse if a Libel was absurdly written, which was the case here. In support of this he referred to a case in which the person accused was not held justified, because he had taken liberties with the King's English. There is evidently, he said, an ellipsis in this sentence; but as it stands it is to be left to the judgement of the Jury, and no meaning is to be drawn from it but what a man of plain understanding would attach to it. Now it runs thus: "If no wrongs are to be redressed or suggested improvements listened to" &c. It may therefore be read two ways; as relates to the *wrong*s and as relates to the *improvements*.

Sir FRANCIS MACNAGHTEN observed there was another error; the word "whom" applied to things.

The ADVOCATE GENERAL contended that errors would form no ground of excuse, and mentioned a case where a person was convicted of Libel although almost every word was wrong spelt; and if such things were to be passed over, there would be an inundation of scandal, as by writing in that manner persons might increase the chance of escape.

The Letter proceeds: "The influence of their favor (as that of their displeasure) extends farther than the Government can be aware of." Is not this saying the Secretaries are doing more in their official capacity than the Government are aware of? Now as they have no right to do any thing that the Government are not aware of, is not this a gross imputation against them? It is true, this is expressed by way of hypothesis; but the inference is as clear as if it had been expressed in the most positive manner; and it is easy to express the same thing by insinuation or innuendo as strongly and fully as if directly charged. But it is for a Jury to consider how a man uses his words; and to take the plain meaning that naturally flows from them.

I have now gone over the whole Case, and I think the technical part of it will give you no difficulty. I shall once more observe that what attacks all the members of a body attacks every one of them; and that what is expressed by necessary implication is the same as if it were expressed directly. It appears to me that the passage quoted necessarily leads to the inference that the Secretaries were guilty of a breach of duty. It is therefore a Libel on the Government itself; because it accuses them of hearing no wrongs except when the persons applying may be favoured by their Secretaries. I have no doubt the Jury understand that the Government meant is the Government of Bengal, and the Secretaries of that Government; and it will be for them to say whether it is not meant in that passage to convey an idea that these Secretaries did not do their duties to the Public and the Government of the country. While we live in a country where millions are under our sway, in that country is it to be told to them that nothing reaches the Government but through the favor of the

Secretaries, the Servants of that Government? Good God! is this to be allowed?

What would be thought if it were even a private Banking House, of which it were said that no representations could reach the Managers except through the favor of the Banyan? Is it not an injurious imputation on Government then to say that it is so beset and circumvented as to have no means of becoming acquainted with the complaints of its subjects; so circumvented as to have no external senses?

Sir F. MACNAGHTEN.—Does the Indictment charge a Libel against the Government?

Mr. FERGUSSON.—No, my Lord, I cannot find any such thing in it.

ADVOCATE GENERAL.—It appears to me, that it does, my Lord, as it charges for an offence of and concerning the Government, and Indictments are often so laid.

Addressing himself to the Jury, the learned Advocate said—It is your province, Gentlemen, to decide on the case fairly and impartially, not straining on the one side nor on the other; not to convict the Defendant if you think him innocent of the charge, and at the same time not to shut your eyes to the facts adduced against him. You have an important duty to perform; a duty to the Public as well as to the individuals immediately concerned in this case; and it is as much your duty to protect the character of these men and of the Public against Libels, as to acquit the Defendant if you deem him innocent.

I leave it now to you to decide whether it is a Libel or not, and recollect in performing this duty that it is a part of it to protect public bodies as well as individuals. You are the Judges as well of the law as the fact; and I am confident your Verdict will be directed by just principles on the merits of the case itself, without reference to considerations of any kind, but what arise from this alone.

Mr. FERGUSSON then admitted the publication; admitted that Lord Hastings was Governor General, and was glad of it; admitted the situations held by the different Members of Counsel.

Sir FRANCIS MACNAGHTEN.—Do you admit that the Prosecutors are Secretaries to Government?

Mr. FERGUSSON.—I should like to hear something about that.

ADVOCATE GENERAL.—I'll soon prove that they are. (Mr. Joseph Ives, of Mr. Lushington's Office, was then called, as a Witness, sworn, and examined.)

ADVOCATE GENERAL.—What are you?

WITNESS.—Deputy Secretary in the General Department;

ADVOCATE GENERAL.—Did these Gentlemen (Messrs. Lushington, Bayley, Swinton, Mackenzie, Prinsep, and Colonel Casement,) act as Secretaries in October last?

WITNESS.—They all acted as Secretaries at that time.

Mr. FERGUSSON.—I should like to see their appointments, have you brought them with you?

WITNESS.—Yes, I have.

ADVOCATE GENERAL.—It is not necessary to produce them, and I shall give you a case for that. Lord Ellenborough held in the case of Dr. Parsons, Surrogate of the Ecclesiastical Court, that it was quite sufficient to prove that he was acting at the time mentioned; and in the King v. Jones, it was also held to be sufficient that Mr. Pitt was at the time acting as first Lord of the Treasury; and in the case of the King v. Gordon, where a person slew a Constable, it was sufficient proof of the man's being a Constable that he was acting as such at the time of receiving his death.

Mr. FERGUSSON contended that when persons are stated as being of any particular rank or office, their appointments must be proved. This was held in an action brought by a Physician stated to be an M. D.

ADVOCATE GENERAL.—I am acquainted with that case, it touches me nearly, being a slur on my University.

Mr. FERGUSSON.—St. Andrew's, I suppose?

ADVOCATE GENERAL.—Yes.

Mr. FERGUSSON.—They state themselves to be Secretaries, and they must prove themselves to be such.

Sir FRANCIS MACNAGHTEN held, that if acting as Secretaries, it was sufficient presumption that they were so.

Mr. FERGUSSON.—I am glad the point is settled, as it will clear our way in many other cases that arise in this Court.

ADVOCATE GENERAL.—Mr. Ives, have you read this Paper (the JOURNAL of the 25th of October.) What Government do you understand to be here meant?

WITNESS.—This Government, to be sure.

Mr. FERGUSSON.—Do you mean this Court?

WITNESS.—No no. (laughter.)

ADVOCATE GENERAL.—Is Mr. Lushington Secretary in the General Department?

WITNESS.—Yes.

ADVOCATE GENERAL.—Are any grievances ever laid before the Secretaries to be presented to Government.

WITNESS.—Grievances, Sir?

ADVOCATE GENERAL.—Do you know any instances of application for redress of grievances being made to Government through the Secretaries?

WITNESS.—Yes; one instance lately.

This reply excited a general laugh. The Advocate General observed that this solitary instance might prove more than he wanted—that persons had been frightened from making any applications, by the letter of SAM SOBERSIDES.—People were driven from the Shop.

ADVOCATE GENERAL.—When applications are sent to the Secretaries, is it their duty to lay them before Government?

WITNESS.—It is their bounden duty.

Sir FRANCIS MACNAGHTEN.—Do they not exercise their own judgement on these applications?

WITNESS.—I have understood it so.

ADVOCATE GENERAL (referring to the Journal of the 25th of October.)—What Secretaries do you suppose are here meant?

WITNESS.—Them all.

ADVOCATE GENERAL.—Those six?

WITNESS.—These six.

Mr. FERGUSSON.—Is the sphere of your knowledge confined to your office alone; or does it extend to all the Secretaries' offices generally?

WITNESS.—Generally to all.

Mr. FERGUSSON.—Then of course you know of some other Secretaries besides these six. Has not Lord Hastings a Private Secretary?

WITNESS.—I do not know.

Mr. FERGUSSON.—Do you not know that Henry Chastenay is Private Secretary to His Lordship, through whom applications to Lord Hastings may be made?

WITNESS.—I know nothing at all about that.

Mr. FERGUSSON.—What is the duty of Henry Thoby Prinsep?

WITNESS.—(A pause)

Mr. FERGUSSON.—If you do not know, I will tell you:—To translate Persian Papers.

WITNESS.—Yes.

Mr. FERGUSSON.—What do they relate to? Are they not chiefly Correspondence with Foreign Courts, and about foreign affairs? (We do not know that the Witness gave any answer.)

Mr. FERGUSSON.—There is Dowlut Rao Sindiah, for instance, I suppose he suggests improvements?

WITNESS.—Certainly. (great laughter)



Mr. FERGUSSON.—What is Mr. Lushington's particular duty?

WITNESS.—He is Secretary in the General Department.

Mr. FERGUSSON.—Is it his duty also to lay before Government whatever is sent to him for that purpose?

WITNESS.—It is his bounden duty.

Mr. FERGUSSON.—What is meant by Holt Mackenzie being Secretary in the Territorial Department?

WITNESS.—Because his business is all about Finance. *(a general burst of laughter.)*

Mr. FERGUSSON.—You are the Chief among the Deputy Secretaries in your Office; now what constitutes the Chief Secretary?

WITNESS.—Why the Chief Secretary is Chief because he is Senior, and because he receives 5,000 rupees a year more than the rest *(This answer produced a louder burst of laughter than perhaps every shook the Court House.)*

Mr. FERGUSSON.—Is the only duty of the Chief Secretary to receive 5,000 rupees a year more than the rest? What does he do for this?

WITNESS.—If any of the other Secretaries fall sick, he acts for them.

Mr. FERGUSSON.—Oh! then he is a sort of a Doctor, or Physician General, I suppose?—*(great laughter.)*

WITNESS.—No, no, no.—He is Chief Secretary in the Judicial Department.

Mr. FERGUSSON.—Do you know what the Board of Trade is?

WITNESS.—They transact all the Commercial Business.

Mr. FERGUSSON.—Do they correspond directly with the Governor General in Council, or through the Secretaries?

WITNESS.—They correspond directly.

Mr. FERGUSSON.—Is this the case also with the Post Office, the Marine Board, the Board of Revenue, and the Board of Salt and Opium?

WITNESS.—It is the same.

Mr. FERGUSSON.—If my Bearers refuse to go Dawk, which is frequently the case with people travelling, could I not apply directly to the Board of Revenue?

WITNESS.—Yes.

Mr. FERGUSSON.—Are there not Insurance Offices in Calcutta, in which there are also Secretaries?

WITNESS.—Yes.

THE ADVOCATE GENERAL.—Not to Government.

WITNESS.—No, no—

Mr. FERGUSSON.—Why do you say "No?" because you heard the Advocate General say No—?

WITNESS.—No, no, no; the Secretaries of Insurance Offices are not Secretaries to Government.

Mr. FERGUSSON.—There is an Orphan Society, with a Secretary.—Is there not also a Lying-in Hospital?—I suppose you know nothing about that, however?

WITNESS.—I know nothing at all about them.

A JURYMAN.—The Jury wish to be informed whether you have ever known of any application being made to Government, through a Secretary, and returned by him, without having been presented to Government, and with a recommendation for it to be withdrawn?

WITNESS *(after a long pause, and the question being repeated in a very audible voice.)*—There may have been such a thing; I do not know at present—I do not recollect at present.

A JURYMAN.—Did you ever hear of such a thing taking place in any office?

WITNESS.—*(After a long pause.)*—Yes I did.

ADVOCATE GENERAL.—You cannot pursue this line of examination; because it is quite irrelevant.

Mr. FERGUSSON.—I am not quite sure of that.

WITNESS.—I have heard of such a thing; but I could not swear to it.

THE ADVOCATE GENERAL stated that a circumstance of the kind had occurred to himself; but he did not see that such things were connected with the present case. The learned Gentleman requested that the Editorial remarks in the Paper of the same date be read; which was done accordingly by the Clerk of the Crown.

"We have given in the ASIATIC DEPARTMENT of the Paper a Report of the Evidence adduced before the Coroner, regarding the Murder of Major O'Shaughnessy, which forms an illustration of the vigilance of the Police Officers. It is not possible, we think, that such a circumstance could have taken place in London, without the Police observing it, and affording evidence to bring the perpetrators to Justice. The incurable apathy of the Natives is well known; and therefore we shall not be suspected of blaming the Heads of an Establishment for the neglect of their Servants. It is sufficiently apparent, however, that there is a want of vigilance, and that life and property is insecure; which is sufficient to demand the attention of the Public, in order that the cause of it may be ascertained, and the evil rectified, wherever it may be found to exist. One of the great advantages of a Free Press is that it may make all abuses known, and give them an opportunity of being rectified; but the enemies of a Free Press overlook this public advantage entirely, and regard the exposition of abuses only as being an evil to the persons concerned in them. There is no denying this last position; and doubtless, if any of the Chokedars of Calcutta, who neglect their duty, read the Newspapers, they will join heartily in condemning the Liberty of the Press, which exposes their conduct to "pernicious publicity." If half the zeal that has been displayed, and the pains that have been taken, to put down the Liberty of the Press, because of its being employed to point out grievances and defects, had been applied to remedy the defects themselves, and reform them where necessary, much good might by this time have been done; "TALENTS" so employed would have redounded much to the honour of their possessors, and to the public good; but words are much easier than deeds, and those persons who would write pages to put down, if possible, a Free Press, would not move a limb to increase the safety of the community; nor, although they would transport or banish without a hearing an Advocate of Free Discussion, would they bestir themselves to trace, detect, and apprehend murderers and assassins. They call themselves indeed the Champions of Social Order and Public Decency; but is it orderly that men's houses should be plundered while they are asleep? or is it decent to kill men in the dark? Why then are these Champions not on the alert to protect the innocent and helpless, and bring the guilty to punishment? These would be substantial proofs of their love of Social Order worthy of credence; and they might then boast of it with some show of decency: but at present the only proof they give of the sincerity of their professions is declaiming against evils which do not exist, and recommending that men should be deprived of the protection of the laws, the only method indeed of punishing fictitious crimes. The only proof they give of wishing well to the Public is a display of unceasing and unrelenting malignity against an Individual who has committed no crime and transgressed no law. If words be taken instead of deeds, perhaps the Public may at last be induced to believe that envy and hatred towards one man is a proof of unbounded benevolence towards all others; that those are the greatest Patriots who recommend the suspension of the Laws; and that the Enemies of the Liberty of the Press are the best Friends of Mankind.

"The Second Letter of SAM SOBERSIDES, which will be found also in the ASIATIC DEPARTMENT, deserves equal attention with the first: tho' perhaps it may raise a still greater outcry;—but if such a man as Sir William Jones was compelled to say, from the result of his experience, that no person who attempted a Reform in whatever department of life, or however much needed, could

escape being misrepresented and calumniated, surely men of less brilliant talents and less eminence in life ought not to wonder at sharing the common fate of all who attempt to improve the condition of their fellow-creatures."

The Letter of SAM SOBERSIDES was also read from beginning to end, at the request of Mr. Fergusson, in order to shew that the "suggested improvements" referred to in the alleged Libel, related wholly to Parties, Dress, and matters of Social Intercourse.

Mr. FERGUSSON then rose to address the Court on behalf of the Defendant; and our readers will readily believe how sincerely we regret that it is not in our power, with all our efforts and attention, to do justice to the eloquence displayed on this occasion. The following is, however, as nearly as we could collect, the substance of his Address.

My Lord, and Gentlemen,—I am relieved from the necessity of touching much on a topic respecting which, the large assembly who have this day honoured the Court with their presence probably expected to hear a great deal on this occasion; the topic to which I allude is the Liberty of the Press. I so abstain for the best of all reasons; because I am happy to say that to-day I have not heard it attacked: it is not necessary therefore for me to defend it; and with sensible men its merits require no eulogy. Far less can it be necessary to say any thing in its praise to Englishmen, who know how much England owes to it. For to this we owe every thing we hold most dear. To this we owe the blessings of our reformed religion, to this we owe our liberty, to this we owe our political and moral greatness, the honour of our statesmen, and the integrity of our judges. There was a time, but before the Revolution, when British Statesmen basely betrayed their country and their Sovereign to the Tyrant of France for foreign gold! There was a time when English Judges extorted verdicts from Juries to suit the purposes of oppression! Why is it not so now? Not that our nature is changed, or our minds improved—for man is still the same—but because we have the Liberty of the Press; and we ought to feel gratitude to the Author of all things that we enjoy so great a blessing. 'Tis to the Liberty of the Press that we owe the continuance of those liberties that were established with it at the Revolution; it is the guard, the bulwark of all the rest.

My Learned Friend has not indulged in painting the evils of a Licentious Press as he did on a former occasion: he has followed the course of describing what the Liberty of the Press really is, and the limitations which the Law necessarily imposed on this liberty. In reference to this subject, my learned brother has given a noble instance of the magnanimous Government of the Marquis of Hastings, in Voltaire's description of the Deserter. He has freed it from the galling fetters of an usurping Censorship; you can now go eastward as well as any where else, the only Censor being your own discretion. I congratulate the country on the removal of these fetters, both on account of the advantages that must result from it to the Public and to the Government; and I congratulate the person whose duty it would have been, that he is thereby relieved from the exercise of so odious an office. It has been said that the Liberty of the Press is the liberty of publishing without any previous restraint: with this I fully agree, and it is a liberty which nothing but the united power of King, Lords, and Commons can take from us. So much for the Liberty of the Press: and how has this liberty been exercised in India? If there ever was a Press free from casting aspersions on private character, it is this;—I say it to the honour of all who have been concerned in conducting the Indian Press, not of my Client in particular. It has never been abused to the injury of individuals: I say so with confidence, for if it has, I am ignorant of it. All persons have been exempted from slanders on their private character;—except, indeed, my unfortunate Client, who has been an exception to this rule, he has indeed been slandered sufficiently.

In that great and glorious contest in which the Marquis of Hastings was engaged, all persons showed the utmost energy in supporting the Government. Was there any part of the Press that detracted from the merit of our Illustrious Chief on that occasion? or was there any person connected with it which refused to him that full meed of glory which he so richly deserved? Did

any one attempt to weaken the hands of the Government or encourage its enemies by means of the Liberty of the Press? When the glorious triumph was completed, did not the Press join readily in celebrating the praises of these counsels and achievements by which it was gained? No, Gentlemen, the Liberty of the Press has been more calumniated than any individual, or any body of men, if it be not my unfortunate Client. Against him indeed all its licentiousness has been levelled: and how useless and ineffectual has all its artillery in this instance proved!—No—he has been more sinned against than sinning.

We are told that there is a Faction leagued and banded together to overturn the Government by means of the Press. We are told that there is among us a confederacy of Englishmen who are traitors to themselves and to their country, who wish to overthrow that Government to which we all owe our protection. But on what basis does this infamous accusation rest? Where are we to look for the proof of this abominable conspiracy that threatens this country with blood and Revolution. At such an assertion we start, we are astonished: we trace it to its polluted source, and exclaim, It is only from thence it could have issued. A falsehood so infamous, a Libel so atrocious never before disgraced India. To whom is it applied? Is it to our countrymen, to Englishmen, to that highly respectable and so generally learned class of Englishmen who form the British Inhabitants of India: To them it is applied, and the application refutes itself. When I leave this country, which may probably now be very soon, I shall, like many others, leave some property behind me. Would I leave it in a state which I thought exposed to such imminent danger? Instead of entertaining any such apprehensions, I shall leave it with the fullest confidence; in no country could it be more safe; and were I able to believe the infamous falsehood regarding a Faction, which we have seen promulgated to such an extent, I should indeed have little ground for such confidence. But to dwell upon such a thing, or to believe for a moment that to intelligent Englishmen I need endeavour to refute it, would be to insult you, and all who claim a common country with this pretended Faction.

As to the present Indictment, let it be observed that it is not sufficient, to prove a man guilty of Libel, for a person to cull from a Paper a particular passage which suits his purpose; you must take the whole Letter in connection, and with the whole before you judge whether it was the intention of the writer to calumniate these persons, or what was his object. Now conceive yourselves in Westminster, and these men to be Secretaries of State, which indeed they are: in England their conduct must be subject to comments: suppose then that it were said in the public Papers that if no grievances are to be redressed but through the King's Ministers they will not be redressed at all; would this assertion be looked upon as libellous, or not rather passed over as one of the most common paragraphs of the Papers of the day? And I believe that such was the case with the passage selected for prosecution even here; that thousands, if so many saw the Paper in which it appeared, read it without attaching the least importance to it. They saw a letter about *Burrah Khanahs* (which was the writer's favorite theme) and dress, and parties, and all must naturally conclude that the improvements and grievances mentioned, related to them. The writer complains of the unsuitableness of some of our English habits and customs to this climate; and in some instances with great reason. He dwells on the hardship of persons being in a crowded party, in a heavy European dress, with the Thermometer at 90°; which he thinks no person unless of very long standing in India, can relish. I confess for myself that although I have not been in such parties for many years, it would be a great infliction on me to appear at one now in a woollen coat. Sam complains that nothing goes on well at these parties but eating and drinking; and therefore his object is to have smaller parties, and to have them and more frequently. Such is the nature and object of his Letters to the Public. To give the Libel point, it ought to have been stated that there was some abuse to which the paragraph taken up as libellous referred, of a different kind from those of dresses and parties. It should have been previously stated that one regiment was better treated than another, which might have been a Libel on Colonel



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Casement; or it might have said it was impossible to get Cash for Company's Paper, which might have been a libel on Holt McKenzie, and so on. In reference to this, I may mention that I once made an application to get some Company's paper exchanged, which was not attended to. I threatened to bring an action; the exchange was made immediately; and my desires in this respect were attended to ever after. It ought to have been shown that there had been some imputation of neglect of duty to which the conclusion of the Letter referred.

But what, let me ask, is the amount of SAM SOBERSIDES's Letter?—Why, he says Burrah Khanahs ought to be reformed; that our parties are too large (in this however few will concur with him), and that Shakhos, the weight of a quarter of beef, are very unfit hats for the Military in this hot climate; that silks and cottons ought to be worn in the hot weather in preference to woollens. Plausible enough! though the wool factors at home may differ from him. Then comes Mr. Sheppard, and his good things; and last of all the mighty foundation of this Indictment, "If no wrongs are to be redressed, but through Secretaries and Public Officers, none will be redressed." What is this, let me ask? Let us apply it to his Majesty's Ministers, and let us view it as if we were at home. Why there, the very idea of founding a Libel on such a thing would be laughed and scouted at. What, it would be said; very few wrongs or grievances indeed would be redressed if it depended on their free will. Was the Malt Tax taken off by them? Was the million a year on the Army Estimates reduced by them, or would any of these improvements have taken place if they could have managed to carry on the old System, employ all their former dependants, and raise money to pay them? Gentlemen, in England these things would be laughed at, not only by the nation but by Ministers themselves. No, Gentlemen, The alleviation of the public burdens was not owing to Ministers, but extorted from them by the independent part of the House of Commons, aided by the public voice, strongly expressed through the Press. The Ministers know this to be the case, and would think it no Libel to tell them so.

But here a case is only put hypothetically. "If no wrongs are to be redressed, &c." then so and so will follow. If all means of redress were cut off except through these men, it would indeed be too great a trust to commit to them or any men, however pure and exalted their characters. But this is not the case: there are other means of getting redress besides through these Secretaries—you may get redress of the Governor General himself, without applying to these Prosecutors at all. Therefore an hypothesis is put, supposing a state of things which does not really exist. This Defence would however have been unavailing had there been any previous charge of malversation made by the writer against the Secretaries.

Without any imputation on these Gentlemen's characters, I may not be satisfied if all redress were to come through them; for I have no security that they are better than other men; or better than myself. Now it luckily happens for the satisfaction of those who may not be content with them as the sole and only organs of Government, that there are other means of obtaining redress than through them. Application may be made to Lord Hastings's Private Secretary; and thus every Native of India may have an audience of the Governor General himself, without previously consulting these Gentlemen. There are many ways besides of obtaining redress in the various departments without application to them. Redress of grievances may also be had in this Court, which was established here for the very purpose, without asking their leave, a circumstance which my Learned Friend does not overlook when it suits his purpose and the interest of his Client. Is there any thing so extraordinary in the assertion then, that if all these means of obtaining redress were abolished, and it could only be had through the Secretaries, then most assuredly no grievances would be redressed but such is they choose?

SAM SOBERSIDES did not write this Letter, however, for the purpose of attacking others, but to defend himself. He had written another letter complaining that there were no improvements made suitable to the climate for the increase of

our social comforts. That in our mode of living, eating and drinking, we are just as great JOHN BULLS as ever,—and I hope we shall ever remain so. For this he was accused of levelling an attack against Lord Hastings, which he could never have intended; and from which he was desirous to defend himself. This previous Letter therefore (vide JOURNAL, vol. V. 1821, p. 453) might explain what was the object of the present, which has been made matter of prosecution. He there describes at great length the evils of Burrah Khanahs, &c. "Let us suppose (says he) we are going to one of those parties in the month of October or November. The cold season is supposed to have commenced, and the party are all expected to be *full dressed*. Military men in comfortable warm woollen coats, buttoned up to the throat with tight pantaloons and boots, an ungainly cap or cocked hat under the arm, and a sword quarrelling with their legs; Civilians a little more at their ease but throttled in a Dandy neckcloth brought from Moscow, unable to turn the head without turning the body. The thermometer (without the company in the room) is 89° and not a breath of air from the heavens." (I have been in such a situation myself.) He afterwards further pursues the same subject thus. "Conceive from seventy to eighty ladies and gentlemen (with more than twice the number of black servants behind them) stowed together of a sultry evening in Chowringhee, as close as they stow wool or cotton in a Free Trader; conceive me hot as Falstaff in the dirty clothes basket, seated between two ladies of *high standing*, who are as cool as the melons on the side board, with a large turkey to carve as large as an ostrich, &c."

Such were the grievances his Letters complained of, and he afterward states what are to be the subject of his future Letters, "My Promised Essays (says he) upon Post Office Improvements, Dress, Treatment of Native Servants, &c. have not been forgotten, and you shall soon know what I proposed to say on these subjects." Now it is remarkable that not one of these subjects could be rectified by the application through the Secretaries. In support of his opinion, that the observance of Court etiquette, another evil, is not necessary to support dignity, SAM refers to the example of the great Frederick of Prussia. Now it happened that this Monarch lived the worst of any Prince of his time, which was one among his many eccentricities. An apprehension seems therefore to have been excited that SAM meant to abolish good eating and drinking, a reform which would have been highly injurious to trade. Among others, Mr. Sheppard who allowed nothing to escape him, that concerned "the good things of this life," took up the argument against him. For the full enjoyment of these, Mr. Sheppard recommended him to place himself between two ladies, young and beautiful, instead of "*ladies of high standing*" which must mean of half a century at least, even altho' "*cool as melons*"—probably dry as chips. (a laugh.) Another writer in the public Papers signing himself C,—accused SAM of meaning to make an attack on some persons of high rank; but SAM's Letter referred to hams and turkeys, and did not aim at such high game. He indeed makes some few observations on the Military dress; but surely you would not make it a Libel for a person to say, The Gentlemen of the Army cannot get the dress reformed except through the favor of Colonel Casement.

Gentlemen, I should be ashamed to detain you longer with such a case. I may however add that if these Secretaries really thought it was intended by the letter in question to throw an injurious imputation on their characters, I do not blame them for the present prosecution, and I do not blame my learned friend for giving it his sanction (if he did give it), as I myself under such an impression would have done the same thing had I held the situation he now so much more worthily fills. It is for you, Gentlemen, to decide whether Mr. Buckingham, in publishing these letters, was actuated by the malicious motives ascribed to him, and I feel confident that the case will get a fair and impartial decision, as it has come before a Judge perfectly free from any bias, and who, if he had had any, would have left it behind him in taking the judgment seat. You will hear from him a fair and able statement of the case. The two instances my learned friend has mentioned, of persons being convicted of Libels on public officers of Government, were not such frivolous matters as these. In the one, the Ministers

were charged with this, that after having fitted out a navy at great expence they had suffered it to moulder and decay; and that they had abandoned the line of policy by which alone the country could be saved; the other case was also for a serious charge. Before you bring in my Client guilty, you must be certain that in publishing he was actuated by bad motives, with a malicious intention of libelling the character of the Secretaries. And in making up your minds on this subject, you must take into consideration that my Client is engaged in an arduous undertaking, publishing not less than 16 pages daily, and it would not be surprising if in the multiplicity of articles that pass through his hands, a paragraph of this kind should have escaped his particular notice as it did that of others. I do not think it a libel now; but I must say, that altho' I read the Journal with as much attention as others generally do, this paragraph did not attract my attention at all. Yet I do not blame the Secretaries for bringing the prosecution against my Client if they thought themselves aggrieved. I know no fault that can be found with any of them; and if you acquit my Client you will leave their characters as high and unimpeached as they stood before; and you will leave my Client the character of an upright and independant man;—which he is in spite of all the abuse that has been heaped upon him; for I am confident this charge will fall to the ground like the rest. Mr. Buckingham has been daily loaded with the most scurrilous aspersions; his whole history has been sifted, every event of his varied life has been laid bare in their search for something on which they might found their malicious insinuations, but they have been completely disappointed. His private character and the retirement of his family has been pried into and assailed; and his whole conduct misrepresented and traduced in such a manner as perhaps never any man's was before; tho' in no case that comes within my knowledge, has such treatment been experienced by any one so undeservedly. But I now leave him in your hands, and from you I am satisfied he will receive justice.

Sir FRANCIS MACNAGHTEN then shortly addressed the Jury as nearly as we could gather to the following effect.

Gentlemen of the Jury, I mean to make only a very few observations on the case before me, which I do not think attended with much difficulty. The matter charged as libellous is contained within 16 or 18 lines; and it is for you to pronounce whether or not it be a Libel; I will give no directions what Verdict you ought to find. It was my opinion that, long before the acts of Parliament alluded to by Mr. Fergusson the rights of Jurymen were to decide on the whole case, the law as well the facts; and that the authority assumed by the Court to dictate Verdicts was usurped, and supported by baseless sophistry. The law originally, as now, meant to leave both fact and law to the Jury; nor did it confer on them too great a power in doing so. Any other state of things must be pregnant with injustice; and that greater evils did not arise when such powers were usurped by Judges must have only been owing to their integrity. As to the Liberty of the Press, a Free Press is productive of much good as well as evil: it is attended with many advantages as we have experienced, but in my opinion it has just as great a tendency to do evil. I never could see that a Printer had a right to any more liberty than any other individual; and the Liberty of the Press never could mean that any man might print or publish of another what he thought proper without any responsibility. No such thing was ever meant or could exist in any country. If it were possible that it could exist any where; that one man might set himself above others, and stamp at pleasure every individual with what character he choosed—I would rather be the slave of a Despot. If others should submit to such a tyranny, I, for one, would never submit to it; I would cry out against it, I would leave this state of infamous thralldom.—I beg it to be understood, however, that I do not allude to the present case.—Rather than submit to this, I would seek the dominions of some tyrant. From a tyrant I might expect to derive some advantage if not from his justice at least from his interest; if I could have no protection from his power I might have some hope from his mercy. Could such a state of things have been intended, that our characters should depend on the whim of some individual perhaps no better than ourselves, and be lauded or blackened as

pleased his fancy?—I would prefer Slavery. If such be Liberty, I would have none of it.

Mr. FERGUSSON—"No such construction of the Liberty of the Press has fallen from the Bar."

Sir FRANCIS MACNAGHTEN.—I indeed have not heard it; and I do not allude now to the present case; I will afterwards come to that. In such a state of things as I have been describing, Society would be divided into two classes, tyrants and slaves; and our condition would be inferior to that of the slaves of the most despotic government that ever existed. If a stronger man than myself attacks me, I must fly to the Law for protection, and it is the same with the Liberty of the Press, which is merely the liberty of publishing without any previous restriction, but amenable to Law afterwards.

Gentlemen of the Jury, I beg you all to observe that I did not mean the above observations to apply to the present case; I now come to that. You must take this case by itself. What has been said as to a Libel on the Secretaries being a Libel on Government you must dismiss entirely from your minds. This in my opinion would be like indicting a man for the murder of A and convicting him of the murder of B. You must consider solely whether or not it is a Libel on the character of these Secretaries. Now, Gentlemen, my situation is very peculiar; I wish to be understood as not expressing any opinion whatever, whether the matter be a Libel or not;—not that I am under any apprehension on my own account of any consequences;—No. But situated as I am alone on this Bench, it would not be fitting for me to make any observations on the case. Were I to give any opinion, a motion might be afterwards made for a new trial or in arrest of judgement. The case might therefore be again referred to myself, and I should then be placed in a very awkward situation. As I cannot give an opinion on one side, I will not on the other; and I am to be understood as giving no opinion on either. I shall only add a few remarks on your duties as Jurymen. You are to judge of the whole matter that comes before you; and on that and on nothing else must you form your judgement. You are to dismiss from your minds what you may have heard elsewhere. If Juries were to assume the right to judge according to what was not before them, it would lead to the downfall of Justice. Gentleman, you are bound by your oaths, and by every consideration conscientiously to do your duty, to the parties concerned in this case, and to the whole community; and to decide only on the evidence laid before you. Take with you the Indictment, and the Paper on which it is founded; and if you find that the passage contains a malicious Libel vilifying scandalizing and defaming the character of the Prosecutors as stated in the Indictment, you are bound by every consideration of principle and justice to find a Verdict of Guilty;—bad grammar or obscurity of expression will form no ground of excuse: the question for you is—"Does it as it stands now bear such a construction on a single reading?" If you are satisfied that it does, you are bound to find a verdict of Guilty; and on the contrary, if you are satisfied that it does not bear such a construction, it is your duty to find a Verdict of Not Guilty.

THE JURY appeared to consult together for a moment in the Box before they retired, from which it was expected that their Verdict would be given without retiring. They withdrew, however, for a few minutes only; tho' brief as the period was, their return was awaited with apparent general anxiety. On their re-entering the Court, the Clerk of the Crown proceeded to ask, "Is the Defendant Guilty or Not Guilty?—Gentlemen, How say you?" when, such was the impatience of the Jury to reply, that instead of waiting for the Verdict to be regularly announced by their Foreman, several voices at once eagerly exclaimed "NOT GUILTY! NOT GUILTY!" The assembled audience, which crowded the Court from the commencement of the Trial to its close, yielded to the impulse of the moment and expressed their feelings in loud and general plaudits;—which, however, the parties themselves, on whose behalf this feeling was excited, could neither justify nor approve, and which we trust will not be supposed in any way to deserve praise or imitation, as the solemnity of a Judicial Tribunal cannot be too much respected, or its decisions too reverently received.